

*ole 74-1714*  
OGC 74-1390

8 August 1974

STATINTL

MEMORANDUM FOR:

SUBJECT : Proposed Legislation Concerning Authority  
and Responsibilities of Ambassadors

STATINTL

REFERENCES : A. Aide-Memoire prepared by   
dtd 10 May 1974

B. Ltr to Ambassadors fm President Kennedy,  
dtd May 29, 1961

*where  
is  
this?*

1. Pursuant to your request, I have reviewed Section 8 of the proposed legislation (S. 3473), which concerns the authority and responsibilities of Ambassadors, and References to determine what effect the proposed legislation may have on the Agency.

2. Section 8 imposes on an Ambassador to a foreign country full responsibility under the President for the direction, coordination and the supervision of all United States officers and employees in that country, except personnel under the command of a U.S. area military commander, and a duty to keep himself fully and currently informed on all activities and operations of the U.S. Government in that country. Further, agencies would be required to keep the Ambassador fully and currently informed with respect to all activities and operations of its officers and employees in that country. Although intelligence activities are not specifically mentioned in the proposal, they would seem to be included under "all activities and operations."

3. Reference A discusses the fundamental differences between the proposed law and existing Presidential instruction to Ambassadors, including special classified instructions relating to CIA under which Ambassadors are not normally cognizant of operational details and communications and are furnished only sufficient information to enable them to make a judgment as to any political risk. The Aide-Memoire notes that while there may be sufficient "wiggle" room in the proposed legislation for a similar classified instruction to Ambassadors, the amount of room depends heavily upon the

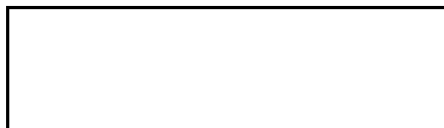
OGC Has Reviewed

interpretation of the words "under the President." Other problems posed by the bill include the legislative oversight responsibility, the difficulty for an Ambassador to distance himself from intelligence activities which may be compromised, and any requirement to inform an Ambassador of undertakings which the President wished to conduct through other channels without the Ambassador's knowledge (which requirement the memorandum terms "patently unconstitutional").

4. As the proposal now reads, it would pose problems to the Agency in terms of its responsibility in directing its foreign intelligence efforts. On its face, it would seem to subject Agency operations to the "approval" of the Ambassador and possibly to the Ambassador's involving himself in decisions concerning the direction of a particular operation. This would have obvious effects on the Agency's mission. The proposal may be interpreted to include room for a specific classified instruction to Ambassadors relating to CIA. However, it is not clear whether such an instruction could be similar to the existing classified instructions since the latter, in effect, would diminish the responsibilities of the Ambassador as set forth in the proposed legislation. To ensure that the Agency is not adversely affected by Section 8, it would appear necessary to amend the Section. This might be accomplished by adding to Section 8 the words "unless under particular circumstances the Ambassador and the officer or employee are notified to the contrary" at the end of new Section 16(b), and the words "unless under particular circumstances the Ambassador and the department or agency are notified to the contrary" at the end of new Section 16(c).

5. The question also arises as to whether Section 8 should be eliminated entirely. The problems concerning the Agency's responsibility under the proposal to keep the Ambassador fully and currently informed, the legislative oversight responsibilities, and the Ambassador's close connection with intelligence activities, all involve policy considerations. These considerations may well be overriding factors. If policy considerations warrant, or if an appropriate amendment to Section 8 cannot be obtained, it is suggested that an effort be made to eliminate Section 8 from the proposed legislation.

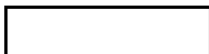
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cc: OLC

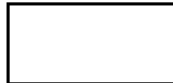



13 August 1974

To: GLC

~~OGC~~ memo for your use for possible  
Hays briefing on Muskie (Ambassador)  
amendment.

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<b>Remarks:</b> <div style="border: 1px solid black; width: 60px; height: 20px; margin-bottom: 10px;"></div> <div style="text-align: center;">STATINTL</div> <p>Is it a practical, political possibility for Section 8 to be deleted rather than just amended? Obviously, we could live very well without it.</p> <div style="text-align: center;">STATINTL</div> <div style="border: 1px solid black; width: 180px; height: 60px; margin: 10px auto;"></div> <div style="text-align: right; margin-top: 10px;"> </div>					
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